

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

United States of America,)
 Plaintiff,)
vs.) Case No. 04-3103-01-CR-W-FJG
Robert Joseph Harper,)
 Defendant.)

ORDER

Pending before the Court is defendant's motion to strike indictment (Doc. #21), filed January 21, 2005, and the government's response thereto (Doc. #22), filed January 25, 2005.

On May 4, 2005, United States Magistrate Judge James C. England entered a report and recommendation (Doc. #27) which recommended that defendant's motion to strike indictment be granted in part and that the additional sentencing allegations be stricken as surplusage. No objections to the report and recommendation were filed.

The Court, after independent review of the record and applicable law, denies defendant's motion to dismiss or strike indictment (Doc. #21). The Court grants defendant's alternative motion that any special sentencing factors set forth in the indictment be stricken. Accordingly, the additional sentencing allegations as stated in the indictment (Doc. #1), filed July 23, 2004, are stricken.

/s/Fernando J. Gaitan, Jr.
Judge Fernando J. Gaitan, Jr.
United States District Judge

Dated: June 8, 2005
Kansas City, Missouri